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January 6, 2006

Federal Communications Commission
Office of Secretary

Marlene H. Dortch, Esquire
Secretary
Federal Communications Commission
The Portals
Attention: CGB Room 3-B431
445 12th Street, S.W.
Washington, D.C. 20554

Re: KLTV(TV), Tyler, Texas (Facility ID Number 68540)
KTRE(TV), Lufkin, Texas (Facility ID Number 68541)
Request for Exemption from the Closed Captioning Requirements

Dear Ms. Dortch:

CivCo, Inc. ("CivCo"), licensee of the above-referenced television stations (the "Stations"), hereby submits, in triplicate and pursuant to 47 C.F.R. § 79.1(f), a request for exemption from the closed captioning requirements for the unscripted, interview portions of their program, "Inside East Texas." As demonstrated herein, the requested exemption would avoid placing an undue burden on the Stations. The factual representations asserted herein are supported by the attached Declaration.

KLTV(TV) and KTRE(TV) both operate in the Tyler-Longview (Lufkin & Nacogdoches), Texas market (DMA 111). KTRE(TV) is a satellite station of KLTV(TV). Both stations air "Inside East Texas," a half-hour public affairs program produced by the Stations. This non-news program addresses local issues of concern (e.g., crime, local charity efforts) and is comprised of scripted and unscripted, interview portions. The majority of the program, the scripted portions, are captioned using "electronic news room" technique ("ENT"). The interview portions amount to approximately ten minutes of the half-hour program and are currently not captioned. The program normally airs Sunday mornings at 10:00 a.m. on KTRE(TV) and 10:30 a.m. on KLTV(TV) for a total of approximately 52 episodes per year. The Stations normally repeat the program on Mondays at about 1:40 a.m. The program is not distributed outside of the Stations' local service areas or market.

CivCo believes the Stations' "Inside East Texas" is categorically exempt from the Commission's closed captioning requirements because the program is produced by the Stations, has limited repeated value, is of local public interest, is not news programming, and, with respect to the interview portions of the program, for which the ENT of captioning is not available. The program is produced on a very low budget basis, is not remunerative in itself, and is presented essentially as a "public service."¹ As described below, a captioning requirement for the entire program could result in such a sufficient economic burden that the program would not be televised at all.

¹ See *Closed Captioning and Video Description of Video Programming*, MM Docket No. 95-176, Report and Order, 13 FCC Rcd 3272, ¶ 158 (1997), *recon. granted in part and denied in part*, 13 FCC Rcd 19973 (1998) (describing locally produced and distributed non-news programming exemption).

Out of an abundance of caution, we hereby request exemption only of the interview portions of the program from the Commission's closed captioning requirements based on undue burden, beginning Sunday, January 8, 2006 until September 1, 2006. (The Stations did not air the program on Sunday, January 1, 2006.) We feel that given additional time, we can acquire technology that would allow us to caption "Inside East Texas" in our own facilities, with our own staff, at a reasonable cost. We feel that we can accomplish this in an approximate eight-month time frame. The scripted portions of the program would continue to be captioned using ENT during that period. This request should be deemed withdrawn on September 1, 2006 if the Commission has not acted on it by then.

Under the Commission's Rules, the following factors will guide the Commission in determining whether an undue burden justifies an exemption of its closed captioning requirements:

- (i) The nature and cost of the closed captions for the programming;
- (ii) The impact on the operation of the provider or program owner;
- (iii) The financial resources of the provider or program owner; and
- (iv) The type of operations of the provider or program owner.²

We submit that these and other relevant factors support a grant of the instant request for an exemption of the closed captioning requirements for only the interview portions of "Inside East Texas" during the above-specified period.

Closed captioning the entire program would impose significant costs on the Stations and impact the Stations' operations. Two captioning providers, Raycom Post Production and Caption Colorado, estimate it would cost approximately \$19,604.00 and \$20,280.00 to caption the entire program each year. That amounts to approximately \$377.00 and \$390.00 per episode for captioning costs. The Stations' current production costs for the program are minimal at approximately \$4500.00 annually. KTRE(TV) produces a quarter of the program's episodes, and KLTV(TV) produces the remainder. Therefore, production costs are split on a 75/25 ratio with KLTV(TV) shouldering 75% of the production costs. Using ENT, captioning of the scripted portions of the program currently costs \$338.00 annually. The program is currently being produced solely as a public service. Since we are not able to secure advertiser support for the program, all costs are being absorbed by the Stations. Captioning the entire program would amount to a 300% increase in production costs and would probably signal the end of the program. Because the captioning costs for the interview portions of the program would make the program more expensive, the Stations may be forced to replace this locally produced program with a captioned program such as those provided by national or syndicated programming suppliers.

The Stations are trying to get captioning from other sources at a more reasonable cost. We have contacted several other companies (Vitac, New Day Media, and Excel Reporting and Associates), and we are awaiting quotes from them. However, most production sources contacted utilize the same type of captioning process so choosing another source should be no more or less burdensome than using the companies cited above. Captioning the program in-house would significantly increase production time. With a lack of captioning technology, the in-house method would require several hours to transcribe, script, and encode the program. Captioning in-house

² 47 C.F.R. § 79.1(f)(2).

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would also require signal degradation and generation loss. As such, captioning the interview portions of the program in-house is not a feasible alternative at this time.

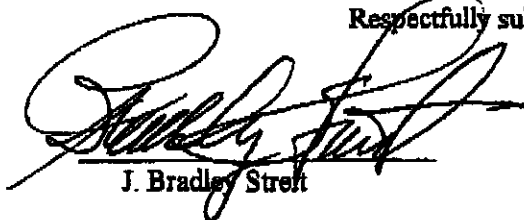
The Stations are small market television stations, each with a small staff and limited technical capabilities. "Inside East Texas" does not bring in enough revenue to justify hiring any other personnel. To close caption the interview portions of the program, the Stations would have to hire someone for four hours each day, two days per week, to do this job. It would not be financially feasible to do this. The Stations currently have a twelve person staff that produces the program. The Stations are already investing significant amounts of its resources to produce the program. Adding another employee is not a viable option since the expense of the twelve used to produce the program already makes the program almost too costly to produce. If one adds the expense of closed captioning to the program, as mentioned above, it may result in cancellation of the program since it would mean additional expense for the Stations.

The Stations have explored text or graphic display as alternatives for closed captioning the interview portions of the program. The portions where this would be feasible, the scripted portions of the program, are currently captioned. Because the interview portions of the program are unscripted and ad-lib in nature, a text or graphic display in those portions is unfeasible.

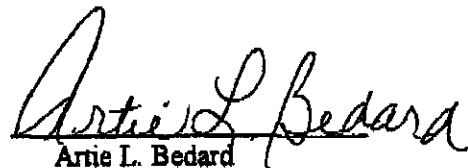
CivCo and the Stations are committed to closed captioning and ensuring that television viewing is available to the many deaf and hard of hearing viewers. The Stations are exploring options for captioning the unscripted portions of "Inside East Texas." Nevertheless, CivCo believes that requiring the closed captioning of the interview portions of the program at this time would impose an undue burden on the Stations, forcing the Stations to cancel the locally produced program. Because captioning the interview portions of the program would cause significant difficulty and expense, we respectfully submit that exempting those portions of the program from the closed captioning requirements until September 1, 2006 would serve the public interest.

If you need any further information concerning this request, please contact me.

Respectfully submitted,



J. Bradley Street



Artie L. Bedard

January 6, 2006

Before the
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

In the Matter of

CivCo, Inc.

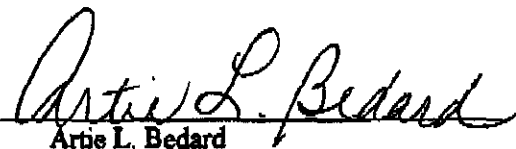
For Request for Exemption from
Closed Captioning Requirements

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DECLARATION

I am Artie L. Bedard and I hold the position of Vice President of Cosmos Broadcasting Corporation, the parent company through subsidiaries of CivCo, Inc., which is the licensee of KLTV(TV) and KTRB(TV). I am also the General Manager of KTRB(TV).

The factual matters set forth in the foregoing request for exemption from the closed captioning requirements for the interview portions of "Inside East Texas" are true to the best of my knowledge and belief. I declare under penalty of perjury that the foregoing is true and correct.

By: 
Artie L. Bedard

January 6, 2006